



**Australian Government**  
**Repatriation Medical Authority**

**Statement of Principles**  
**concerning**  
**THORACOLUMBAR INTERVERTEBRAL**  
**DISC PROLAPSE**  
**(Balance of Probabilities)**  
**(No. 69 of 2023)**

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The Repatriation Medical Authority determines the following Statement of Principles under subsection 196B(3) of the *Veterans' Entitlements Act 1986*.

Dated 23 June 2023.

The Common Seal of the  
Repatriation Medical Authority  
was affixed to this instrument  
at the direction of:

Professor Terence Campbell AM  
Chairperson

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## 1 Name

This is the Statement of Principles concerning *thoracolumbar intervertebral disc prolapse (Balance of Probabilities)* (No. 69 of 2023).

## 2 Commencement

This instrument commences on 25 July 2023.

## 3 Authority

This instrument is made under subsection 196B(3) of the *Veterans' Entitlements Act 1986*.

## 4 Repeal

The Statement of Principles concerning intervertebral disc prolapse (Balance of Probabilities) (No. 44 of 2016) (Federal Register of Legislation No. F2016L00564) made under subsections 196B(3) and (8) of the VEA is repealed.

## 5 Application

This instrument applies to a claim to which section 120B of the VEA or section 339 of the *Military Rehabilitation and Compensation Act 2004* applies.

## 6 Definitions

The terms defined in the Schedule 1 - Dictionary have the meaning given when used in this instrument.

## 7 Kind of injury, disease or death to which this Statement of Principles relates

- (1) This Statement of Principles is about thoracolumbar intervertebral disc prolapse and death from thoracolumbar intervertebral disc prolapse.
- (2) This Statement of Principles applies to thoracolumbar intervertebral disc prolapse that has been diagnosed on the basis of:
  - (a) clinical manifestations of local pain and stiffness, or symptoms and signs of thoracolumbar spinal cord compression or thoracolumbar nerve root compression; and
  - (b) imaging evidence of thoracolumbar intervertebral disc prolapse, including protrusion, herniation, extrusion or rupture of the nucleus pulposus or annulus fibrosus of a thoracolumbar intervertebral disc into the vertebral canal of the thoracolumbar spine.

Note: *imaging evidence of thoracolumbar intervertebral disc prolapse* is defined in the Schedule 1 - Dictionary. It will usually be the case that the date of the imaging evidence of thoracolumbar intervertebral disc prolapse is after the date of clinical onset.

- (3) For the purposes of this Statement of Principles "**thoracolumbar intervertebral disc prolapse**" means protrusion, herniation, extrusion or rupture of the nucleus pulposus or annulus fibrosis of an intervertebral disc into the vertebral canal of the thoracolumbar spine, causing symptoms or signs, including intervertebral disc prolapses at the thoracolumbar and lumbosacral junctions.
- (4) The definition of thoracolumbar intervertebral disc prolapse given at subsection (3) excludes bulging of the intervertebral disc and Schmorl's nodes.
- (5) Whilst thoracolumbar intervertebral disc prolapse attracts ICD-10-AM codes M51.0, M51.1 or M51.2. In this Statement of Principles, the definition of "thoracolumbar intervertebral disc prolapse" is that given at subsection (3).
- (6) For subsection (5), a reference to an ICD-10-AM code is a reference to the code assigned to a particular kind of injury or disease in *The International Statistical Classification of Diseases and Related Health Problems, Tenth Revision, Australian Modification (ICD-10-AM)*, Tenth Edition, effective date of 1 July 2017, copyrighted by the Independent Hospital Pricing Authority, ISBN 978-1-76007-296-4.

*Death from thoracolumbar intervertebral disc prolapse*

- (7) For the purposes of this Statement of Principles, thoracolumbar intervertebral disc prolapse, in relation to a person, includes death from a terminal event or condition that was contributed to by the person's thoracolumbar intervertebral disc prolapse.

Note: *terminal event* is defined in the Schedule 1 – Dictionary.

## **8 Basis for determining the factors**

On the sound medical-scientific evidence available, the Repatriation Medical Authority is of the view that it is more probable than not that thoracolumbar intervertebral disc prolapse and death from thoracolumbar intervertebral disc prolapse can be related to relevant service rendered by veterans or members of the Forces under the VEA, or members under the MRCA.

Note: *MRCA*, *relevant service* and *VEA* are defined in the Schedule 1 – Dictionary.

## **9 Factors that must exist**

At least one of the following factors must exist before it can be said that, on the balance of probabilities, thoracolumbar intervertebral disc prolapse or death from thoracolumbar intervertebral disc prolapse is connected with the circumstances of a person's relevant service:

- (1) having trauma to the affected intervertebral disc within the 24 hours before the clinical onset of thoracolumbar intervertebral disc prolapse;

Note: *trauma to the affected intervertebral disc* is defined in the Schedule 1 - Dictionary.

- (2) having a penetrating injury to the affected intervertebral disc or adjacent vertebral body, within the 24 hours before the clinical onset of thoracolumbar intervertebral disc prolapse;

Note: *penetrating injury to the affected intervertebral disc or adjacent vertebral body* is defined in the Schedule 1 - Dictionary.

- (3) physically carrying or lifting loads of at least 10 kilograms, to a cumulative total Load-Factor of at least 300,000 within the 5 years before the clinical onset of thoracolumbar intervertebral disc prolapse;

Note: *Load-Factor* is defined in the Schedule 1 - Dictionary.

- (4) driving a motor vehicle for an average of at least 30 hours per week, for a period of at least 2 years within the 10 years before the clinical onset of thoracolumbar intervertebral disc prolapse;

Note: *motor vehicle* is defined in the Schedule 1 - Dictionary.

- (5) piloting an engine powered aircraft for a cumulative total of at least 5,000 hours within the 10 years before the clinical onset of thoracolumbar intervertebral disc prolapse;

- (6) flying in a helicopter as operational aircrew, for a cumulative total of at least 5,000 hours within the 10 years before the clinical onset of thoracolumbar intervertebral disc prolapse;

- (7) having smoked tobacco products in an amount of at least 10 pack-years before the clinical onset of thoracolumbar intervertebral disc prolapse, and if smoking has ceased before the clinical onset of thoracolumbar intervertebral disc prolapse, then that onset occurred within 5 years of cessation;

Note: *one pack-year* is defined in the Schedule 1 - Dictionary.

- (8) having bacterial infection of the affected disc at the time of the clinical onset of thoracolumbar intervertebral disc prolapse;

- (9) being obese for at least 5 years within the 25 years before the clinical onset of thoracolumbar intervertebral disc prolapse;

Note: *being obese* is defined in the Schedule 1 - Dictionary.

- (10) having trauma to the affected intervertebral disc within the 24 hours before the clinical worsening of thoracolumbar intervertebral disc prolapse;

Note: *trauma to the affected intervertebral disc* is defined in the Schedule 1 - Dictionary.

- (11) having a penetrating injury to the affected intervertebral disc or adjacent vertebral body, within the 24 hours before the clinical worsening of thoracolumbar intervertebral disc prolapse;

Note: *penetrating injury to the affected intervertebral disc or adjacent vertebral body* is defined in the Schedule 1 - Dictionary.

- (12) physically carrying or lifting loads of at least 10 kilograms, to a cumulative total Load-Factor of at least 300,000 within the 5 years before the clinical worsening of thoracolumbar intervertebral disc prolapse;

Note: **Load-Factor** is defined in the Schedule 1 - Dictionary.

- (13) driving a motor vehicle for an average of at least 30 hours per week, for a period of at least 2 years within the 10 years before the clinical worsening of thoracolumbar intervertebral disc prolapse;

Note: **motor vehicle** is defined in the Schedule 1 - Dictionary.

- (14) piloting an engine powered aircraft for a cumulative total of at least 5,000 hours within the 10 years before the clinical worsening of thoracolumbar intervertebral disc prolapse;

- (15) flying in a helicopter as operational aircrew, for a cumulative total of at least 5,000 hours within the 10 years before the clinical worsening of thoracolumbar intervertebral disc prolapse;

- (16) having smoked tobacco products in an amount of at least 10 pack-years before the clinical worsening of thoracolumbar intervertebral disc prolapse, and if smoking has ceased before the clinical worsening of thoracolumbar intervertebral disc prolapse, then that worsening occurred within 5 years of cessation;

Note: **one pack-year** is defined in the Schedule 1 - Dictionary.

- (17) having bacterial infection of the affected disc at the time of the clinical worsening of thoracolumbar intervertebral disc prolapse;

- (18) being obese for at least 5 years within the 25 years before the clinical worsening of thoracolumbar intervertebral disc prolapse;

Note: **being obese** is defined in the Schedule 1 - Dictionary.

- (19) inability to obtain appropriate clinical management for thoracolumbar intervertebral disc prolapse before the clinical worsening of thoracolumbar intervertebral disc prolapse.

## 10 Relationship to service

- (1) The existence in a person of any factor referred to in section 9, must be related to the relevant service rendered by the person.
- (2) The factors set out in subsections 9(10) to 9(19) apply only to material contribution to, or aggravation of, thoracolumbar intervertebral disc prolapse where the person's thoracolumbar intervertebral disc prolapse was suffered or contracted before or during (but did not arise out of) the person's relevant service.

## 11 Factors referring to an injury or disease covered by another Statement of Principles

In this Statement of Principles:

- (1) if a factor referred to in section 9 applies in relation to a person; and
- (2) that factor refers to an injury or disease in respect of which a Statement of Principles has been determined under subsection 196B(3) of the VEA;

then the factors in that Statement of Principles apply in accordance with the terms of that Statement of Principles as in force from time to time.

# Schedule 1 - Dictionary

Note: See Section 6

## 1 Definitions

In this instrument:

**being obese** means having a Body Mass Index (BMI) of 30 or greater.

Note: **BMI** is also defined in the Schedule 1 - Dictionary.

**BMI** means  $W/H^2$  and where:

- (a) W is the person's weight in kilograms; and
- (b) H is the person's height in metres.

**clinical onset** means the point backwards in time from the first date of imaging confirming thoracolumbar intervertebral disc prolapse, to the date at which the symptoms of thoracolumbar intervertebral disc prolapse were persistently present, as assessed by a registered medical practitioner.

**imaging evidence of thoracolumbar intervertebral disc prolapse** means an image of the interior of a body obtained by medical techniques, including X-ray radiography or magnetic resonance imaging, showing thoracolumbar intervertebral disc prolapse, that is usually obtained at a date after the date of clinical onset of the disease.

Note: **clinical onset** is defined in the Schedule 1 – Dictionary.

**Load-Factor** means  $W^2 \times T$ , where:

- (a) W is the weight of the load lifted or carried in kilograms; and
- (b) T is the time the load was lifted or carried in hours.

**motor vehicle** means a motorised vehicle which imparts vibration to the whole body, such as a car, truck, motor cycle, tractor, jeep, armoured personnel carrier, tank, or a construction vehicle, such as a forklift, bulldozer, crane, steam shovel, backhoe or steam roller.

**MRCAs** means the *Military Rehabilitation and Compensation Act 2004*.

**one pack-year** means the amount of tobacco consumed in smoking 20 cigarettes per day for a period of 1 year, or an equivalent amount of tobacco products.

Note 1: An equivalent amount of tobacco products is 7,300 grams of smoking tobacco by weight, either in cigarettes, pipe tobacco or cigars, or a combination of same. For pipe tobacco, cigars or combinations of multiple tobacco types, 1 gram of tobacco is considered to be equal to one cigarette.

Note 2: Pack-years are calculated by dividing the number of cigarettes smoked per day by 20 and multiplying this number by the number of years the person has smoked. For example, smoking 10 cigarettes per day for 10 years is equal to 5 pack-years, and smoking 40 cigarettes per day for 10 years is equal to 20 pack-years.

**penetrating injury to the affected intervertebral disc or adjacent vertebral body** means piercing of the affected intervertebral disc or adjacent vertebral body by an object such as a bullet, shell fragment, knife or needle.



**relevant service** means:

- (a) eligible war service (other than operational service) under the VEA;
- (b) defence service (other than hazardous service and British nuclear test defence service) under the VEA; or
- (c) peacetime service under the MRCA.

Note: *MRCA* and *VEA* are also defined in the Schedule 1 - Dictionary.

**terminal event** means the proximate or ultimate cause of death and includes the following:

- (a) pneumonia;
- (b) respiratory failure;
- (c) cardiac arrest;
- (d) circulatory failure; or
- (e) cessation of brain function.

**thoracolumbar intervertebral disc prolapse**—see subsection 7(2).

**trauma to the affected intervertebral disc** means a discrete event involving the application of significant physical force to the affected intervertebral disc, that causes:

- (a) the development of symptoms and signs of pain and tenderness, and either altered mobility or range of movement of the thoracolumbar spine. In the case of sustained unconsciousness or the masking of pain by analgesic medication, these symptoms and signs must appear on return to consciousness or the withdrawal of the analgesic medication; and
- (b) the persistence of these symptoms and signs for a period of at least 7 days following their onset, save for where medical intervention for the trauma to the affected intervertebral disc has occurred and that medical intervention involves one of the following:
  - (i) immobilisation of the thoracolumbar spine by splinting or similar external agent;
  - (ii) injection of a corticosteroid or local anaesthetic into the thoracolumbar spine; or
  - (iii) surgery to the thoracolumbar spine.

**VEA** means the *Veterans' Entitlements Act 1986*.